

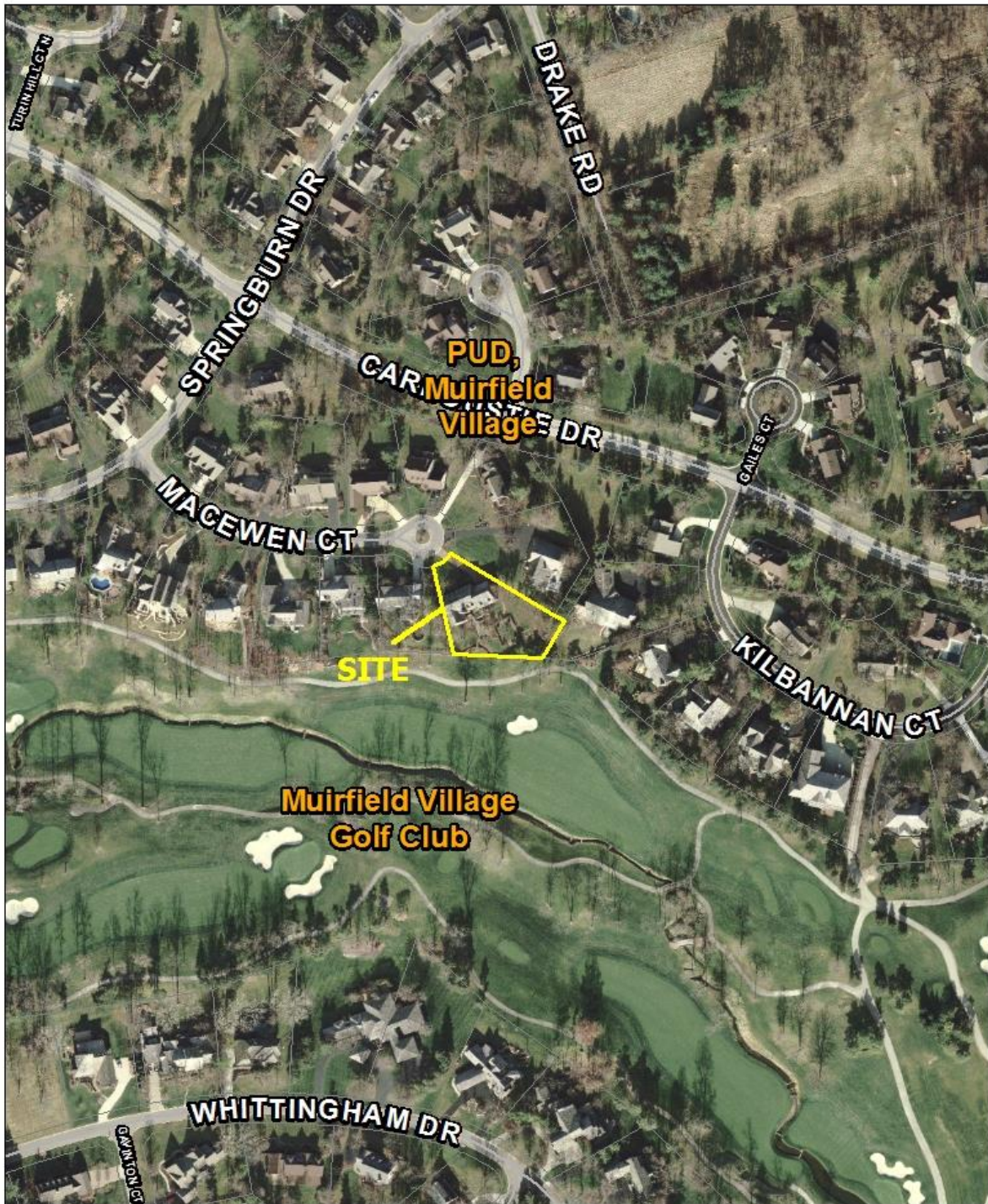
# Planning Report

Thursday, September 24, 2015

## Weeks Residence – 5929 Macewen Court

### Case Summary

Agenda Number	1
Case Number	15-092V
Location	5929 Macewen Court South side of Macewen Court approximately 480 feet east of Springburn Drive.
Proposal	To extend the width of the driveway within the driveway setback.
Request	Non-use (area) variance to a residential driveway that does not meet the minimum setback requirement of three feet.  Requires review and approval by the Board of Zoning Appeals based on the review criteria of Zoning Code Section 153.231.
Applicants	Brian & Amelie Weeks.
Planners	Tammy Noble, Senior Planner and Katie Dodaro, Planning Assistant.
Planning Contact	(614) 410-4649 or tnoble@dublin.oh.us   (614) 410-4663 or kdodaro@dublin.oh.us
Planning Recommendation	<b>Disapproval</b> Based on Planning's analysis, the request does not meet the review criteria for a non-use (area) variance and disapproval is recommended.





## Facts

### Site Description

This 0.54 acre site is on the south side of Macewen Court approximately 480 feet east of Springburn Drive, located in Muirfield Village subdivision. The site contains a single-family, residential house. The site is located on a cul-de-sac and is narrow in the front of the property and widens toward the back of the property. The current driveway width is twelve feet with a three foot setback from the property line. The property has a solid brick fence around the edge of the property and on all sides. To the front of the house are two landscape walls that complement the perimeter fence. According to the applicant, these landscape walls are a primary factor in the variance request.

### ***LANDSCAPE WALLS***



### Zoning

PUD, Planned Unit Development District.

### Surrounding Zoning and Uses

To the north, east, and west is zoned PUD, Planned Unit Development District located in the Muirfield Village PUD and contains single-family, residential homes. To the south is zoned PUD, Planned Unit Development District located in the Muirfield Village PUD and contains the Muirfield Village Golf Course.

## Facts

### Proposal

The applicant is proposing to extend the existing 12-foot wide driveway to 16 feet. To widen the driveway, the applicant is requesting to encroach into the required 3 foot driveway setback along the eastern property line. This setback is required under Section 153.210(B)(2) of the Zoning Code and if granted, would result in a driveway that is located on the property line with zero setback along the eastern property line.

The purpose of the regulation is to allow a minimal separation between properties which allows for adequate storm water management, as well as provide some separation between properties so that activity on one site does not impact activity on another. In this instance, if there is no separation between the driveway and the adjacent property, passenger maneuvering and/or exiting vehicles would potentially occur on the adjacent property.

## Details

## Driveway Setback

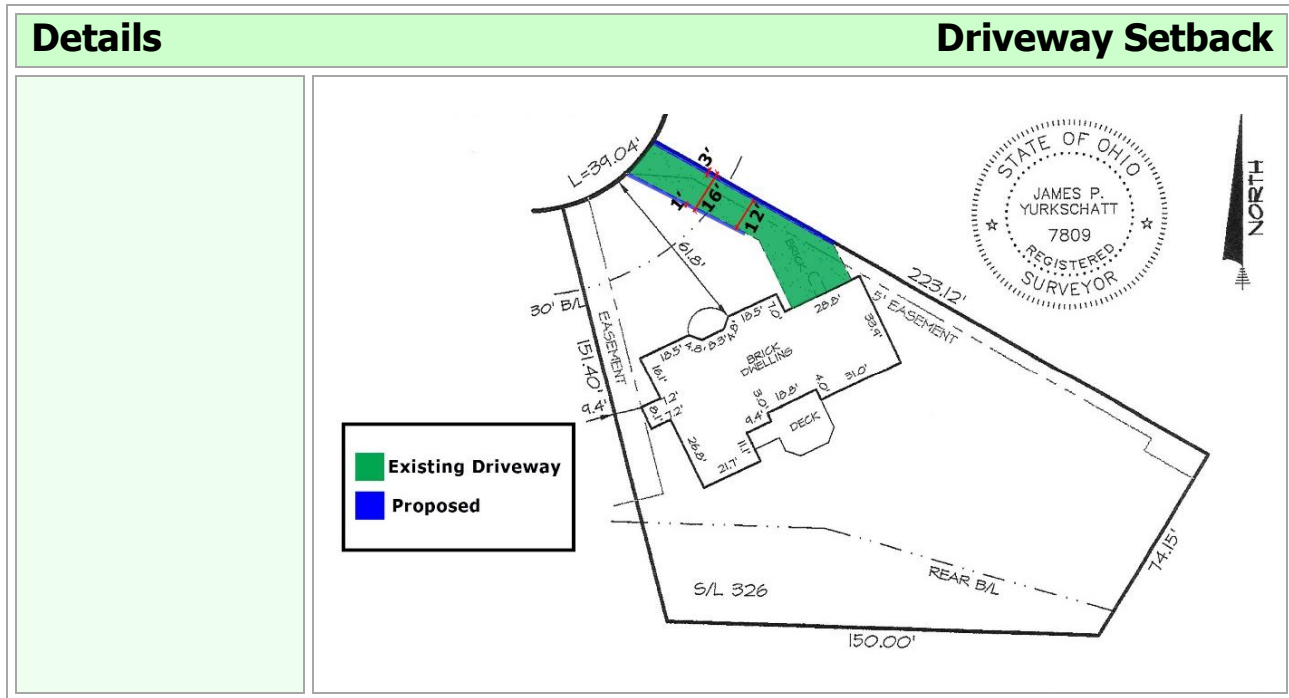
### Process

Zoning Code Section 153.231(B)(3) allows the Board of Zoning Appeals to approve requests for non-use (area) variances only in cases where the Board finds there is evidence of a practical difficulty present on the property, limiting conformance to the strict requirements of the Zoning Code. The Board shall make a finding that the required review standards have been appropriately satisfied (refer to the last page of this report for the full wording of the review standards).

### Variance Request

Section 153.210(B)(2) of the City of Dublin Zoning Code requires that driveways shall be set back at least three feet from a side lot line. Where a single common drive is provided for two adjoining lots no driveway setback is required. The applicant is requesting to extend the existing 12-foot driveway 3 feet to the east property line and 1 foot towards the west property line, totaling 16 feet in width. The requested driveway extension will result in a driveway that has zero setback.

The basis of the request is the existing landscape walls that are located to the front of the property would have to be modified or removed in order to expand the driveway consistent with code requirements and the applicant is stating that this is not a preferred option. The applicant has also stated that maneuverability out of the existing driveway is problematic and extending the driveway to the east would remedy this issue.



Analysis	Driveway Setback
<b>ALL THREE OF THE FOLLOWING STANDARDS MUST BE MET</b>	
(1) <i>Special Conditions</i>	<p><b>Standard Not Met.</b></p> <p>The applicant has stated that the landscape walls are a unique feature to the property and are permanently affixed. These walls add a unique aesthetic value to the front of the property however do not constitute a special condition. Landscape walls or stone walls can be found throughout Dublin, some of which have historic value. Planning has determined that this site improvement is not a special condition that is unique or exclusive to this property. Furthermore these walls can be modified, opposed to completely removed, in order to accommodate a driveway expansion that meets code requirements.</p>
(2) <i>Applicant Action/Inaction</i>	<p><b>Standard Met.</b></p> <p>The fence is original to the property and the applicants did not build the home or the fence; therefore, no action has been taken by the applicant to create the need for the variance.</p>
(3) <i>No Substantial Adverse Effect</i>	<p><b>Standard Not Met.</b></p> <p>Granting this variance will impair the intent and purpose of the driveway requirements. These requirements regulate the location and size of the driveway with the intent of creating driveways that are not on property line is to ensure proper draining and provide separation between uses.</p>

Analysis	Driveway Setback
<b><i>AT LEAST TWO OF THE FOLLOWING FOUR STANDARDS MUST BE MET</i></b>	
<p><i>(1) Special Privileges</i></p> <p><i>(2) Recurrent in Nature</i></p> <p><i>(3) Delivery of Governmental Services</i></p> <p><i>(4) Other Method Available</i></p>	<p>The following standards have been reviewed with the finding that two standard has been met.</p> <p><b>Standard Not Met.</b>  This provision of the Zoning Code is applicable to all residential lots in the City of Dublin. Allowing the driveway to encroach into the required setback would grant the applicant a driveway not permitted by other properties in the same zoning district or neighborhood. The fence located on the property does not deprive the applicant of alternative options, therefore granting the variance would provide the applicant special privilege not granted to others.</p> <p><b>Standard Met.</b>  Many residential lots have a similar shape that when located on cul-de-sacs, and have walls or fences in the front to the front of the property; therefore, the conditions have potential to be recurrent in nature.</p> <p><b>Standard Met.</b>  No services are affected.</p> <p><b>Standard Not Met.</b>  Other options are available that would meet all applicable requirements.</p>

Recommendation	Disapproval
Disapproval	Based on Planning's analysis the requested variance does not meet the non-use (area) variance standards, and disapproval of the variance is recommended.

## NON-USE (AREA) VARIANCES

### Section 153.231(H)(1) Variance Procedures

On a particular property, extraordinary circumstances may exist making a strict enforcement of the applicable development requirements of this Code unreasonable and, therefore, the variance procedure is provided to allow the flexibility necessary to adapt to changed or unusual conditions that meet the standards of review for variances. In granting any variance, the Board of Zoning Appeals shall prescribe appropriate conditions and safeguards to maintain the intent and spirit of the zoning district in conformity with the Zoning Code.

*Non-Use (Area) Variances.* Upon application, the Board of Zoning Appeals shall only approve a request for a non-use variance only in cases where there is evidence of practical difficulty present on the property in the official record of the hearing, and that the findings required in (a) and (b) have been satisfied with respect to the required standards of review (refer to the last page of this Report for the full wording of the review standards):

#### **(a) That all of the following three findings are made:**

- (1) That special conditions and circumstances exist which are peculiar to the land or structure involved and which are not applicable to other lands or structures in the same zoning district whereby the literal enforcement of the requirements of this Chapter would involve practical difficulties. Special conditions or circumstances may include: exceptional narrowness, shallowness or shape of a specific property on the effective date of this Chapter or amendment; or by reason of exceptional topographic or environmental conditions or other extraordinary situation on the land, building or structure; or by reason of the use or development of the property immediately adjoining the property in question.*
- (2) That the variance is not necessitated because of any action or inaction of the applicant.*
- (3) Granting the variance will not cause a substantial adverse effect to property or improvements in the vicinity or will not materially impair the intent and purposes of the requirement being varied or of this Chapter.*

#### **(b) That at least two of the following four findings are made:**

- (1) That a literal interpretation of the provisions of the Zoning Code would not confer on the applicant any special privilege or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter.*
- (2) The variance request is not one where the specific conditions pertaining to the property are so general or recurrent in nature as to make the formulation of a general regulation for those conditions reasonably practicable.*
- (3) The variance would not adversely affect the delivery of governmental services (e.g., water, sewer, garbage).*
- (4) The practical difficulty could be eliminated by some other method, even if the solution is less convenient or most costly to achieve.*